

Settlement/Hearing: August 21<sup>st</sup>, 2008  
Time: 10:00 A.M.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13  
Case No. 08-11242 MG

**RUDOLFO LOZANO AND  
MARIA ADRIANA LOZANO,**

**NOTICE OF SETTLEMENT**

Debtor(s)

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**PLEASE TAKE NOTICE**, that an *Order*, a true copy of which is annexed hereto, will be presented for signature to the Hon. Martin Glenn, United States Bankruptcy Judge, on the 21<sup>st</sup> day of August, 2008 at 10:00 A.M. at the United States Bankruptcy Court, U.S. Customs House, One Bowling Green, New York, New York 10004.

Hearings on Objections, if any, to be conducted same date and time in Courtroom 610. Written objections or counterorders must be submitted to chambers by no later than close of business *three (3) days prior* to settlement.

**OBJECTIONS TO PROPOSED ORDER:**

All objections to a proposed order **MUST HAVE** the settlement date of the original notice typed or written on the first page in the upper right-hand corner of the document.

**COUNTER-PROPOSED ORDERS:**

All counter-proposed orders should be clearly denominated as such, with the return date of the original proposed order in the upper right-hand corner of the first page. A

copy of the transcript, if a hearing was held, must be submitted with the counter-proposed order.

Dated: White Plains, New York  
August 12<sup>th</sup>, 2008

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir (JLS0938)**  
**Chapter 13 Trustee**  
**399 Knollwood Road**  
**White Plains, New York 10603**  
**Chapter 13 Tel. No. 914-328-6333**

**TO:** United States Trustee  
33 Whitehall Street  
New York, New York 10004

Rudolfo and Maria Adriana Lozano  
119 Clinton Avenue  
Kingston, New York 12401

David J. Hoffman, Esq.  
29 Broadway 27<sup>th</sup> Floor  
New York, New York 10006

Saxon Mortgage  
Fremont Investment & Loan  
P.O. Box 961106  
Fort Worth, Texas 76161-0106

Fremont Investment & Loan  
175 N. Riverside Drive  
Anaheim, California 92808

DaimlerChrysler Financial Services Americas, LLC  
Trustee Payment Dept. # 100301  
P.. Box 55000  
Detroit, Michigan 48255-1003

DaimlerChrysler Financial Services Americas, LLC  
c/o Deily Mooney & Glastetter, LLP  
8 Thurlow Terrace  
Albany, New York 122003

Wells Fargo Bank, NA, Trustee  
c/o Saiber, LLC  
One Gateway Center 13<sup>th</sup> Floor  
Newark, New Jersey 07102-5311

Countrywide Home Loans, Inc., Servicer  
c/o Steven J. Baum, PC  
220 Northpointe Parkway Suite G  
Amherst, New York 14228

Countrywide Home Loans, Inc., Servicer  
c/o Zeichner Ellman & Krause, LLP  
575 Lexington Avenue  
New York, New York 10022

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13

Case No. 08-11242 MG

**RUDOLFO LOZANO AND  
MARIA ADRIANA LOZANO,**

Debtor (s)

-----X

**ORDER DISMISSING CHAPTER 13 CASE**

The Court finds that cause exists to dismiss this case under  
11 U.S.C. §1307(c )(1) in that the debtor has caused unreasonable delay that is prejudicial to  
creditors by:

- a. failing to provide all documentation as required by the Chapter 13 trustee.

The Court further finds that cause exists to dismiss this case under  
11 U.S.C. §1307(c )(3) in that the debtor failed to timely file a plan under 11 U.S.C. §1321 and  
Federal Rules of Bankruptcy Procedure 3015(b);

The Court further finds that cause exists to dismiss this case under  
11 U.S.C. §1307 (c )(4) in that the debtor has failed to remit timely payments to the Chapter 13  
trustee as required by 11 U.S.C. §1326;

The Court further finds that the debtor has failed to comply with  
11 U.S.C. §521(i) by failing to timely file documents as required under 11 U.S.C. §521(a)(1);

The Court further finds that the debtor failed to comply with  
11 U.S.C. §521(e)(2)(A)(i) in that the debtor failed to provide the trustee with copies of federal  
tax returns for the most recent tax year ending immediately before the commencement of the  
case, within seven (7) days prior to the meeting of creditors scheduled pursuant to 11 U.S.C.  
§341(a).

**IT IS HEREBY ORDERED THAT:**

Pursuant to 11 U.S.C. §§1307 (c )(1), (c )(3), (c )(4), 521(i) and 521(e)(2)(B), this  
Chapter 13 case is hereby dismissed.

Dated: New York, New York  
August , 2008

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**UNITED STATES BANKRUPTCY JUDGE**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13

Case No. 08-11242 MG

**RUDOLFO LOZANO AND  
MARIA ADRIANA LOZANO,**

**TRUSTEE'S AFFIDAVIT**

Debtor(s)

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STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER    )   ss.:

Jeffrey L. Sapir, being duly sworn, deposes and says:

1.       He is the standing Chapter 13 Trustee.
2.       The debtor(s) filed a Chapter 13 proceeding on April 8<sup>th</sup>, 2008.
3.       The debtor(s) failed to comply with the provisions of 11 U.S.C. §1307(c)(1),  
(c)(3) and (c)(4).
4.       The debtor(s) is in violation of 11 U.S.C. §521(i) of the Bankruptcy Code  
which requires the debtor to file, in part, payment advices and evidence of other payments received  
within 60 days, inclusive of operating statements; and a proper "means" test.
5.       The debtor(s) is in violation of §521(e)(2)(A)(i) of the Bankruptcy Code  
which requires the debtor to provide *seven (7) days prior to the §341(a) meeting of creditors*  
,copies of federal tax returns for the most recent year immediately prior to the commencement of  
the case.
6.       The debtor(s) failed to timely file a plan in violation of Bankruptcy Rule  
3015(b).
7.       The debtor(s) failed to remit timely proposed plan payments to the trustee,  
having remitted -0- payments, and being, at this juncture, *four month(s) in arrears*.
8.       The debtor(s) failed to provide the trustee with certain of the required  
documentation, to wit, real estate appraisal(s) on the properties; and evidence of a Debtor-In-

Possession tax account.

9. Upon information and belief, the debtor used a false social security number in order to purchase an automobile from Daimler Chrysler.

**WHEREFORE**, the trustee respectfully requests that the annexed order dismissing this case be signed.

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir**

Sworn to before me this  
12<sup>th</sup> day of August, 2008  
/s/ Jody L. Kava

Jody L. Kava  
Notary Public, State of New York  
No. 4836806  
Qualified in Westchester County  
Term Expires: 10/31/09

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

**RUDOLFO LOZANO AND  
MARIA ADRIANA LOZANO,**

Debtor(s)

Chapter 13  
Case No. 08-11242 MG

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**AFFIDAVIT OF MAILING**

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

Lois Rosemarie Esposito, being duly sworn, deposes and says:

I am not a party to the action herein, I am over the age of 18 years and reside in the County of Westchester, State of New York. On August 12<sup>th</sup>, 2008, I served a true copy of the within document, to the herein listed parties at the address(es) designated for that purpose, by mailing same in a properly sealed envelope with postage prepaid thereon, in an official depository of the United States Postal Service within the State of New York to the following:

**TO::** United States Trustee  
33 Whitehall Street  
New York, New York 10004

Rudolfo and Maria Adriana Lozano  
119 Clinton Avenue  
Kingston, New York 12401

David J. Hoffman, Esq.  
29 Broadway 27<sup>th</sup> Floor  
New York, New York 10006

Saxon Mortgage  
Fremont Investment & Loan  
P.O. Box 961106  
Fort Worth, Texas 76161-0106

Fremont Investment & Loan  
175 N. Riverside Drive  
Anaheim, California 92808

DaimlerChrysler Financial Services Americas, LLC  
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8 Thurlow Terrace  
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Newark, New Jersey 07102-5311

Countrywide Home Loans, Inc., Servicer  
c/o Steven J. Baum, PC  
220 Northpointe Parkway Suite G  
Amherst, New York 14228

Countrywide Home Loans, Inc., Servicer  
c/o Zeichner Ellman & Krause, LLP  
575 Lexington Avenue  
New York, New York 10022

/s/ Lois Rosemarie Esposito  
**Lois Rosemarie Esposito**

Sworn to before me this  
12<sup>th</sup> day of August, 2008

/s/ Jeffrey L. Sapir  
Jeffrey L. Sapir  
Notary Public, State of New York  
No. 60-8764500  
Qualified in Rockland County  
Cert. Filed in Westchester County  
Term Expires: 12/31/10